



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Salt Lake Field Office  
2370 South 2300 West  
Salt Lake City, Utah 84119  
ph: (801) 977-4300; Fax: (801) 977-4397  
www.blm.gov/ut

0002 50450055  
Leslie



IN REPLY REFER TO:

3809

U-69198

(UTW011)

MAR 12 2009

Certified Mail Number- 7007 1490 0000 0216 2179  
Return Receipt Requested

RECEIVED

MAR 16 2009

DIV. OF OIL, GAS & MINING

### DECISION

Mr. Walter Wellman  
Wellman Minerals Corporation  
1042 Fort Union Blvd., Suite 127  
Midvale, Utah 84047

43 CFR 3809  
Noncompliance Order

### Noncompliance Order

On January 31, 2007, the Bureau of Land Management (BLM) Salt Lake Field Office (SLFO) issued to you a "Notice Expired" decision letter informing you that your previously existing notice for mining operation (Notice) located in section 14, T. 8 S., R. 18 W., in Tooele County, on the Brown Rock #7 lode mining claim had expired effective January 22, 2007 because you failed to extend it as required by 43 CFR 3809.332. BLM's January 31, 2007 decision stated, in part, that:

"All exploratory activities on the subject claim must cease immediately. The only activities that are currently permitted are those activities related to reclamation of the surface disturbance associated with your exploratory operations. Within 30 days of receipt of this decision, a reclamation plan and schedule for final reclamation of the site must be submitted to this office."

"If you wish to conduct mining activities on the subject mining claim, you must submit a new Plan of Operations (Plan) within 30 days of receipt of this decision. If you wish to limit your operation to the type of exploratory activities that have previously occurred at the site, a new Notice must be filed within 30 days of receipt of this decision. The Plan must be approved, or the Notice accepted, and a financial guarantee accepted prior to any additional earth disturbing activities at this site."

On February 21, 2007, thirty days after the expiration of your notice, we received a letter from you stating that "operations will continue to be those authorized under our previous Notice." The BLM responded in writing via certified mail on March 8, 2007, informing you that expired Notices cannot be re-authorized or otherwise continued. The letter reiterated that you were required to cease all mining activity, submit a Notice or Plan, or reclaim the site.

0002

The record shows that you received BLM's January 31, 2007 decision and March 8, 2007 follow-up letter. The record also shows that you *failed to comply* with the decision, in that you have not to date submitted to BLM a reclamation plan, Notice, or Plan of Operations.

Field inspections conducted by BLM personnel since early 2007 indicate that the subject site remains unreclaimed. In addition, a significant amount of new surface disturbance was observed beginning with an April 29, 2008 site visit by BLM. At that time approximately 2,500 feet of new roads were observed on the hill northwest of the original disturbance. Numerous bladed areas were also noted as well as three open boreholes of undetermined depth. This additional disturbance also remains unreclaimed as of this date.

Your continued unauthorized activity at the site and failure to reclaim it is in violation of 43 CFR 3809. Specifically, you are in violation of the following regulations:

§3809.335(a)(1,2)      *When your notice expires you must cease operations, except reclamation and complete reclamation promptly*

At the expiration of your Notice, you did not cease operations, submit a reclamation plan, reclaim the site, or submit a Notice or Plan of Operations. Your reclamation obligations continue beyond the expiration or any termination of your notice until you satisfy them [43 CFR 3809.335(b)]. Accordingly, BLM considers you to be in noncompliance.

§3809.21(a)              *You must submit a complete notice before you commence exploration causing surface disturbance on public lands*

You have conducted exploration causing surface disturbance at the site including earthmoving, road construction, and drilling, without submitting a notice.

§3809.312(c)            *You must provide BLM a financial guarantee before beginning operations*

You began additional unauthorized surface disturbing activities at the site without providing BLM a financial guarantee.

This noncompliance order is issued under the authority of:

43 CFR 3809.601, as your operation is not in compliance with §3809.335, §3809.21, and §3809.312.

Within 30 days of receipt of this letter you must complete one of the following:

- 1) If you wish to conduct mining or exploratory activities at the site a new Notice or Plan must be filed with BLM. The Notice or Plan must be approved, and a financial guarantee accepted, prior to any additional earth disturbing activities at this site.
- 2) If you do not wish to continue mining or exploratory activity you must initiate reclamation promptly. Before reclamation work begins a reclamation plan and schedule for final reclamation of the site must be submitted to this office. The reclamation plan and

schedule for reclamation must be accepted by the Salt Lake Field Office prior to commencing any reclamation work on the ground. Reclamation should include properly abandoning the water well, removing the fence, plugging the open boreholes, pushing overburden material back into the excavations, reshaping the land to near its original contour, and redistributing the topsoil. All roads, including access roads into the site would also need to be reclaimed. Finally, the reclaimed areas would need to be ripped, harrowed, or disked, then re-seeded.

Your activity at the site has been conducted without authorization and you are in noncompliance. If you fail to submit the aforementioned documentation or you refuse to or are unable to conduct reclamation of the site, BLM may initiate forfeiture of all or part of your financial guarantee (§3809.595) and begin reclaiming the site including access roads leading into it. In addition, the BLM may initiate trespass proceedings against you for unauthorized activity on public lands.

If you do not agree and are adversely affected by this decision, in accordance with 43 CFR 3809.804, you may have the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in 43 CFR 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the Utah State Director does not make a decision on whether to accept your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You then have 30 days in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass the State Director review, this decision may be appealed directly to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in the Salt Lake Field Office within 30 days of receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.